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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

HOGAN et al

Serial No. 10/068,001

Filed: February 8, 2002



Conf. No.: 6407

Atty. Ref.: 2380-604

Group: 2684

Examiner: Nguyen, K. M.

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Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

ELECTION UNDER 35 USC §121

In response to the Office Action dated June 15, 2009 holding the subject matter of claims 2-5, 7-15, 43-51, 55-60 and 87-92 to be non-obvious and patentably distinct from that of claims 17, 19, 52, 53, 70 and 72, Applicant(s) hereby elect the invention of Group I, (upon which claims 2-5, 7-15, 43-51, 55-60 and 87-92 are readable) for further substantive examination.

This election is made **with traverse**. This is the second consecutive restriction requirement, both restriction requirements coming after eight previous substantive office actions, the first seven of which were non-final. In view of the extensive examination thus far conducted there can be no serious burden on the examiner if all claims are continue to be examined together. MPEP §808. Moreover, the restriction requirement is improper in view of linking limitations in dependent claims.


In a June 25, 2009 telephone conversation Examiner Harper indicated that the restriction is improper and that Examiner Nguyen would agree with the traversal.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

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Respectfully submitted,
NIXON & VANDERHYE P.C.

July 14, 2009

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